



Robert Moser, MD, Secretary

Department of Health & Environment

Sam Brownback, Governor

Testimony on HB 2207
to
The House Agriculture and Natural Resources Committee
By **John W. Mitchell**
Kansas Department of Health and Environment
February 14, 2013

Good afternoon Chairwoman Schwartz and members of the committee. I am John Mitchell, Kansas Department of Health and Environment (KDHE) Director of the Division of Environment. I appear before you today to present KDHE's position in support of House Bill 2207. The intent of House Bill 2207 is to allow owners or operators of confined feeding facilities to establish their required separation distances prior to the submission of a complete application; the substitute version of this bill which we would like to offer, also achieves this intent.

After discussion with industry groups and the Kansas Department of Agriculture, KDHE would like to propose a substitute to the current bill. The substitute would still allow owners or operators to establish separation distances prior to the submission of a complete application. However, the proposed substitute would ease the burden of the regulated community by eliminating the need to submit a document that is not currently required by statute or regulation while giving notice to adjacent landowners and neighbors that a confined feeding facility is being proposed on land near theirs. That document is referred to as a "notice of intent to construct" in the current bill. It has been determined that the intent of the bill can be accomplished by modifying the language regarding a "registration" document that currently exists in the statute. Elimination of the notice of intent to construct and modification of the registration requirements should streamline the bill.

More specifically, the substitute would strike the requirement for the owner or operator of a facility to file a notice of intent to construct. Instead, the facility would only be required to submit the registration for the facility in order to establish the separation distances. This registration is currently required by statute. Notice of the receipt of the registration would then be issued.

While KDHE is appreciative of the fact that time is needed to develop a survey and engineering plans for the site, the amendment would limit the time that the established separation distances would be valid to an initial 18 months with the possibility of extension for an additional 18 months if deemed appropriate by the Secretary of Health and Environment. KDHE believes that 3 years to develop a complete application is sufficient in most cases. Allowing additional time past this three year period could impact surrounding landowners should they want to develop a habitable structure on their property in the future.

The substitute bill still would strike the language that swine less than 55 pounds are not counted towards a federal permit. This change is proposed to be consistent with federal requirements found at 40 CFR 122.23.

I would note that the fiscal note developed by KDHE anticipates minimal fiscal impact and any additional staff time would be absorbed by existing staff.

Thank you for the opportunity to present the position of KDHE with the House Agriculture & Natural Resources Committee proposed substitute. I will be happy to respond to questions at the appropriate time.

Date 2-14-2013
Attachment # 3